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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/049,351

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04/07/2006

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EXAMINER

CONTEE, JOY KIMBERLY

ART UNIT

PAPER NUMBER

2617

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/049,351	Applicant(s) NAKAMURA ET AL.	
	Examiner Joy K. Contee	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6,9,11,17,19,21 and 24-40 is/are allowed.
- 6) ☒ Claim(s) 1-5,18,22-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/10,24/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. The indicated allowability of claims 1-5,18,22 and 23 is withdrawn in view of the newly discovered reference to Ide, US Patent No. 5,892,171. Rejections based on the newly cited reference follow.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5,18,22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armanto et al., (Armanto), U.S. Patent No. 6,094,587, in view of Kikuchi, US Patent No. 5,825,905, used previously and in further view of Ide, US Patent No. 5,892,171.

Regarding claims 1-5,18,22 and 23, Armanto discloses a telephony terminal apparatus (and method and machine readable medium) having a communication unit that transmits a signal to a remote location and receives a signal from the remote location and a music reproduction unit that can reproduce a music piece in association with the signal (**col. 3, lines 35-64 and col. 12, lines 19-34**).

Armanto fails to explicitly disclose wherein the music reproduction unit comprises: a score data memory that memorizes score data representing a music

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piece; a tone generator of frequency modulation type settable with parameters for generating harmonics by frequency modulation to synthesize a tone a performance controller that sets the tone generator with parameters according to the memorized score data for enabling the tone generator to synthesize tones of the music piece represented by the score data.

In a similar field of endeavor, Kikuchi discloses wherein the music reproduction unit comprises: a score data memory that memorizes score data representing a music piece; a tone generator of frequency modulation type settable with parameters for generating harmonics by frequency modulation to synthesize a tone a performance controller that sets the tone generator with parameters according to the memorized score data for enabling the tone generator to synthesize tones of the music piece represented by the score data (**col. 16, line 43 to col. 17, line 35**).

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify Armanto's programming of a telephone's ringing tone to include score data memory for the purpose of allowing musical score recognition as taught in Kikuchi.

The combination of Armanto and Kikuchi fail to disclose a performance controller that interprets the score data to read out timbre data designated by the score data from the timbre data memory for setting the tone generator with the read timbre data so that the generator can generate the tones having timbres specified by the score data according to read timbre data.

In a similar field of endeavor, Ide discloses a performance controller that interprets the score data to read out timbre data designated by the score data from the

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timbre data memory for setting the tone generator with the read timbre data so that the generator can generate the tones having timbres specified by the score data according to read timbre data (col. 7, lines 13-34 and col. 8, line 13 to col. 9, line 26).

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the combination of Armanto and Kikuchi to disclose a performance controller that interprets the score data to read out timbre data designated by the score data from the timbre data memory for setting the tone generator with the read timbre data so that the generator can generate the tones having timbres specified by the score data according to read timbre data, for the purpose of providing an extension of capabilities of a music apparatus such as an electronic musical instrument and a personal computer having function of an electronic musical instrument without any restriction.

Allowable Subject Matter

4. Claims 6-9, 11-17, 19-21 and 24-40 are allowed.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joy K. Contee whose telephone number is 571.272.7906. The examiner can normally be reached on Monday through Friday, 5:30 a.m. to 2:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on 571.272.7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JC


JOY K. CONTEE
PATENT EXAMINER